

Message Text

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PAGE 01 GENEVA 01862 01 OF 03 221705Z

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ACTION EB-11

INFO OCT-01 EUR-25 EA-11 NEA-10 IO-14 ISO-00 CIAE-00

COME-00 DODE-00 DOTE-00 FMC-04 INR-10 NSAE-00 RSC-01

CG-00 COA-02 DLOS-06 OMB-01 TAR-02 SPC-03 SWF-02

AGR-20 AID-20 LAB-06 OIC-04 SIL-01 STR-08 TRSE-00

CIEP-02 CEA-02 PA-04 PRS-01 USIA-15 DRC-01 ARA-16

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FM USMISSION GENEVA

TO SECSTATE WASHDC 4778

INFO AMEMBASSY ATHENS

AMEMBASSY BONN

AMEMBASSY BRUSSELS

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PASS FMC FOR CHAIRMAN BENTLEY

E.O. 11652: N/A

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PAGE 02 GENEVA 01862 01 OF 03 221705Z

SUBJECT: SHIPPING: UN CONFERENCE ON CODE OF CONDUCT FOR

LINER CONFERENCES

BEGIN SUMMARY: COMMITTEE ONE ON OBJECTIVES AND PRINCIPLES MET AND ESTABLISHED SIX-COUNTRY WORKING GROUP TO TRY TO REACH AGREEMENT ON TEXT. COMMITTEE TWO ON SUBSTANCE MET BRIEFLY TO REVIEW WORK OF ITS TWO NEGOTIATING GROUPS AND TO REFER MAJOR UNRESOLVED ISSUES TO PRESIDENT'S GROUP. COMMITTEE THREE ON IMPLEMENTATION CONTINUED ITS DISCUSSION ON RULES OF PROCEDURE AND FINAL CLAUSES. REACTIVATED PRESIDENT'S GROUP NOW MAJOR FORUM FOR NEGOTIATING DISAGREED TEXTS OF CODE. MOST DIFFICULT ISSUE FOR US REMAINS "CARGO-SHARING" PARTICULARLY GROUP 77 INSISTENCE THAT IT BE MANDATORY FOR CONFERENCE. END SUMMARY

1. COMMITTEE ONE HELD ITS INITIAL MEETING OF THE RESUMED SESSION MARCH 20 AND SET UP A SIX-COUNTRY WORKING GROUP (THREE FROM GROUP 77, TWO GROUP B AND ONE GROUP D) WHICH WILL DISCUSS PROPOSED TEXT ON OBJECTIVES AND PRINCIPLES AND REPORT BACK TO MAIN COMMITTEE.

2. NEGOTIATING GROUP ONE (CHAIRER BY LOBO OF BRAZIL) OF COMMITTEE TWO COMPLETED ITS DISCUSSIONS OF SECTIONS B AND C OF CODE. ALTHOUGH IT NARROWED AREA OF DISAGREEMENT ON NUMBER OF BRACKETED PARAGRAPHS OUTSTANDING, MANY OF THESE STILL NOT YET FULLY AGREED, AND ON MAJOR ISSUES (MEMBERSHIP IN CONFERENCES AND CARGO-SHARING) THERE IS STILL FUNDAMENTAL DISAGREEMENT. MAJOR PROBLEM AROSE OVER INTERPRETATION OF SECTION OF PRESIDENT'S COMPROMISE PACKAGE DEALING WITH CARGO-SHARING WITH GROUPS B (EXCEPT SPAIN) AND D MAINTAINING THAT CARGO-SHARING FORMULA OF CODE WOULD APPLY ONLY WHERE CONFERENCES HAVE CARGO-SHARING (OR POOLING) ARRANGEMENTS AND 77 INSISTING THAT FORMULA ONLY MEANINGFUL IF CARGO-SHARING FORMULA WERE MANDATORY IN ALL CONFERENCES.

3. FRANCE, SUPPORTED BY SEVERAL OTHER GROUP BS (ESP. FRG AND NETHERLANDS) HAS MADE MAJOR ISSUE OUT OF NEED FOR PROVISION ON CARGOES TO BE COVERED BY CARGO-SHARING FORMULA, SO AS TO BRING GOVERNMENT PREFERENCE CARGOES AND INTER-GOVERNMENTAL BILATERAL AGREEMENT CARGOES LIMITED OFFICIAL USE

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PAGE 03 GENEVA 01862 01 OF 03 221705Z

UNDER UMBRELLA OF CARGO-SHARING REQUIREMENT. ONLY MILITARY EQUIPMENT CARGOES WOULD BE EXCEPTED. GROUP D ORIGINALLY OPPOSED ENTIRE CONCEPT BUT SUBSEQUENTLY LIMITED OPPOSITION ONLY TO INCLUSION OF BILATERAL AGREEMENT CARGOES. GROUP OF 77 POSITION REMAINS AMBIGUOUS, AND IT EVIDENT THAT SOME OF THEM (NOTABLY LATIN AMERICANS WHO USE BROAD GOVERNMENT-CONTROLLED CONCEPT AS PRETEXT FOR CARGO PREFERENCE) ARE HESITANT.

4. US REP MADE MAJOR EFFORTS IN PARALLEL PRIVATE DIS-
CUSSIONS WITH KEY GROUP B COUNTRIES WHICH HAVE NOT
ACCEPTED PRESIDENT'S COMPROMISE PACKAGE (UK, NORWAY,
SWEDEN, DENMARK, GREECE) TO OBTAIN SUPPORT FOR US VERSION
OF CARGO-SHARING FORMULA, UK, NORWAY AND GREECE REMAIN
HARD-LINE, INSISTING THAT EQUAL RIGHTS FOR NATIONAL
SHIPPING LINES IS EQUIVALENT TO BILATERALISM AND
THEREFORE UNACCEPTABLE. POSSIBILITY OF USING BROAD
GROUP B SUPPORT FOR MODIFICATION OF MAJORITY TEXT ON
CARGO-SHARING (WHICH UNACCEPTABLE TO US IN ITS PRESENT
FORM) THEREFORE CUT NEARLY TO ZERO. US REP NOW CON-
CENTRATING ON DIRECT DISCUSSIONS WITH KEY LDC REPS TO
ATTEMPT TO PERSUADE THEM OF
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PAGE 01 GENEVA 01862 02 OF 03 221717Z

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LIMITED OFFICIAL USE SECTION 2 OF 3 GENEVA 1862

8. MOST TROUBLESOME DEFINITIONS ARE "LINER CONFERENCE" AND "NATIONAL SHIPPING LINE." MOST SERIOUS PROBLEM WITH FORMER IS INSISTENCE BY GROUP D AND GROUP 77 THAT DEFINITION EXCLUDE "JOINT SERVICES ESTABLISHED ON AN LIMITED OFFICIAL USE LIMITED OFFICIAL USE

PAGE 02 GENEVA 01862 02 OF 03 221717Z

INTERGOVERNMENTAL LEVEL" WHICH WOULD PERMIT STATES TO EVADE CODE WITH RESPECT TO ANY INTERGOVERNMENTAL BILATERAL AGREEMENT. BIGGEST OPEN QUESTION RESPECTING LATTER DEFINITION IS WHETHER THERE SHOULD BE REQUIREMENT THAT SUCH A LINE MUST FLY FLAG AND BE SUBSTANTIALLY MANNED BY NATIONALS OF COUNTRY CONCERNED. THIS IS MOST PIVOTAL DEFINITION SINCE IT IS AT HEART OF ANY CARGO-SHARING SCHEME.

9. AT BRIEF MEETING OF COMMITTEE TWO MARCH 19 TO RECEIVE REPORTS OF WORKING GROUPS, IT WAS AGREED THAT THE FOLLOWING TEXTS SHOULD BE TRANSFERRED TO PRESIDENT'S GROUP: (1) PARTICIPATION IN TRADE INCLUDING TRANSITIONAL ARRANGEMENTS AND THE CARGO INVOLVED; (2) CRITERIA FOR FREIGHT-RATE DETERMINATION; (3) GENERAL FREIGHT-RATE INCREASES AND (4) OUTSIDERS. THE PROPOSED DEFINITIONS ON (1) LINER CONFERENCE (2) NATIONAL SHIPPING LINE AND (3) THIRD COUNTRY SHIPPING LINE WERE ALSO TRANSFERRED TO THE PRESIDENT'S GROUP.

10. THE REACTIVATED PRESIDENT'S GROUP IS COMPOSED OF 11 GROUP B COUNTRIES (FRANCE, UK, FRG, AUSTRALIA, NEW ZEALAND, NORWAY, CANADA, GREECE, JAPAN, US, SWEDEN AND THE NETHERLANDS), FOUR GROUP D (USSR, GDR, POLAND AND CZECHOSLOVAKIA) AND SIX GROUP OF 77 COUNTRIES (BRAZIL, ARGENTINA, SRI LANKA, INDONESIA, IVORY COAST AND NIGERIA). IN INITIAL DISCUSSIONS IN PRESIDENT'S GROUP, GROUP OF 77 MAINTAINED POSITION THAT CARGO-SHARING SHOULD BE COMPULSORY FOR ALL CONFERENCES BUT US ALONG WITH OTHER GROUP B COUNTRIES IS CONTINUING ITS EFFORTS TO REACH AGREEMENT ON CARGO-SHARING TEXT WHICH WOULD EXCLUDE SPECIFIC PERCENTAGE FOR THIRD-COUNTRY FLAGS AND WOULD APPLY ONLY WHEN CONFERENCES OPERATE CARGO-SHARING ARRANGEMENTS.

11. COMMITTEE III WORK PROCEEDING AT SLIGHTLY FASTER THAN SNAIL'S PACE. FINAL CLAUSES WORK WRAPPED UP ON TUESDAY (MARCH 19) WITH AGREEMENT REACHED ON MOST ARTICLES (ON ALL-STATES SIGNATURE AND RATIFICATION, SEE SEPTTEL); HOWEVER, ENTRY-INTO-FORCE CONTAINS THREE WIDELY VARYING ALTERNATIVES EACH SPONSORED BY ONE GROUP;

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PAGE 03 GENEVA 01862 02 OF 03 221717Z

RESERVATIONS ARTICLE (SEE SEPTTEL) PUT OFF UNTIL SUBSTANTIVE PROVISIONS OF CODE ARE COMPLETED, AND ARTICLE ON AMENDMENTS AND REVIEW CONFERENCE CONTAIN SOME BRACKETED LANGUAGE.

12. CMTE III THEN MOVED TO ARTICLES 14-20, COVERING RELATIVELY NON-CONTROVERSIAL SUBJECTS OF RECOGNITION AND ENFORCEMENT OF CONCILIATION DECISIONS, PUBLICATION, LEGAL EFFECT OF REJECTED DECISIONS, COSTS AND DEFAULT PROCEDURES. US PROPOSALS FOR ARTICLES 13 (WHICH WAS BRIEFLY DISCUSSED), 14 AND 15 TO MAKE CONCILIATION DECISIONS BINDING ON PARTIES WHO ACCEPT THEM WHETHER OR NOT ACCEPTED BY ALL PARTIES TO THE DISPUTE WERE SUPPORTED BY GROUP 77 AND B AND OPPOSED BY D (WHICH WANTS UNANIMITY RULE). US PROPOSALS FOR ARTICLES 16 AND 17 ON PUBLICATION OF DOCUMENTS SUPPORTED BY GREECE, GROUP 77 AND D; OPPOSED BY GROUP B. ARTICLE 18 HAS BEEN TOTALLY REWRITTEN TO STATE NO LEGAL EFFECT OF REJECTED DECISIONS, AND IS SUPPORTED UNANIMOUSLY. A US-AUSTRALIAN PROPOSAL FOR ARTICLE 19 ON COSTS HAS BEEN ACCEPTED UNANIMOUSLY. A DRAFT OF ARTICLE 20 ESSENTIALLY IN ORIGINAL FORM IS SUPPORTED UNANIMOUSLY.

13. CMTE III THEN DEALT WITH QUESTION WHETHER RULE OF PROCEDURE SHOULD BE ANNEXED TO CODE. DRAFTING GROUP TO CONSIDER SUBJECT, WITHOUT FINAL DECISION YET WHETHER RULES ANNEX IS NEEDED, WAS ESTABLISHED, AND MET FOR FIRST TIME THURSDAY P.M. (MARCH 21). GROUP 77 HAS SUBMITTED PROPOSAL THAT A SECRETARIAT ESTABLISHED UNDER UNCTAD PERFORM ADMINISTRATIVE CHORES RELATING TO SECTION F, DISCUSSION PUT OFF. US HAS CIRCULATED INFORMALLY TO GROUP B, USSR, SRI LANKA, PAKISTAN, ARGENTINA AND MEXICO AN OUTLINE OF PROPOSED COMMISSION OF EXPERTS AND ADMINISTRATORS. NO ONE WHO HAS RECEIVED COPY HAS VIOLENTLY OBJECTED, BUT NO ONE IS RUSHING TO CO-SPONSOR. SOME GROUP B COUNTRIES HAVE SUGGESTED US FORMALLY PROPOSE IT, BUT WE FEEL BETTER TIMING, IF PROPOSAL IS TO BE MADE AT ALL, WOULD BE WITH OTHERS CO-SPONSORING WHEN IT CAN BE OFFERED TO FILL A PROBLEM CMTE III WOULD BE WRESTLING WITH (PANEL COMPOSITION; RULES OF PROCEDURE), RATHER THAN GETTING OUT IN FRONT OF ANTICIPATED PROBLEMS AND APPEAR TO BE CAMPAIGNING FOR A PARTICULAR SOLUTION.

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PAGE 04 GENEVA 01862 02 OF 03 221717Z

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PAGE 01 GENEVA 01862 03 OF 03 221719Z

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LIMITED OFFICIAL USE SECTION 3 OF 3 GENEVA 1862

14. WEDNESDAY AND THURSDAY CMTE III TOOK UP ARTICLE
1 BUT HAS NOT FINISHED IT, AND DISCUSSION ON ITS
VARIOUS PARTS HAS LED TO LITTLE AGREEMENT. A MAJOR
DIVISION EXISTS ON RELATIONSHIP OF VOLUNTARY DISPUTE
SETTLEMENT AGREEMENTS TO SECTION FMACHINERY (GROUP B--
VOLUNTARY ARRANGEMENTS TAKE PRECEDENCE; 77 - SECTION F
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PAGE 02 GENEVA 01862 03 OF 03 221719Z

MACHINERY TAKES PRECEDENCE; D - VOLUNTARY ARRANGEMENTS
TAKE PRECEDENCE BUT NO CARRIER CAN BE REQUIRED TO ENTER
INTO DISPUTE-SETTLEMENT MACHINERY AS CONDITION OF JOINING
CONFERENCE). OTHER MAJOR SUBJECTS STILL HAVE NOT BEEN
TAKEN UP--LOCAL CONCILIATION, LEGAL STATUS OF CONFERENCES,
ROLE OF GOVERNMENTS, SITUS OF CONCILIATION, GENERAL
QUESTIONS OF INSTITUTIONALIZATION OF SYSTEM, AND PANEL
COMPOSITION. IT DOES NOT SEEM POSSIBLE IN TIME REMAINING
TO CMTE III THAT ANY LOGICAL OR COHERENT ANALYSIS
OF THESE ISSUES WILL BE POSSIBLE BEFORE PROCEEDING
TO VOTING. CHAIRMAN OF CMTE III IS PROCEEDING AS RAPIDLY
AS POSSIBLE TO ESTABLISH ALTERNATIVE TEXTS ON ALL ISSUES
TO PREPARE THE GROUND FOR A SERIES OF RAPID-FIRE VOTES
TO WRAP UP A TEXT AT OPPORTUNE MOMENT. DALE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CARGO, CARGO SHIPS, STEAMSHIP LINES, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 22 MAR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974GENEVA01862
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740061-0995
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740323/aaaaavjs.tel
Line Count: 348
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 01 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 APR 2002 by collinp0>; APPROVED <05 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: SHIPPING: UN CONFERENCE ON CODE OF CONDUCT FOR LINER CONFERENCES
TAGS: ETRN, UN, UNCTAD
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005